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HOW MIGHT TURKEY HAVE APPLIED JUS AD BELLUM
CRITERIA TO ITS INTERVENTION IN CYPRUS ON 20 JULY 1974

CORE COURSE 5602 ESSAY

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PROLOGUE

On July 15, 1974, the junta ruling Greece implemented a *coup d'état* in Cyprus, overthrowing the elected government of President Markarios, which had been in place since independence in 1960. On July 20 Turkey intervened militarily to reverse the *coup*. This essay will apply the principles of *jus ad bellum* to the July 20, 1974, Turkish intervention.

The Cyprus conflict is one of extreme complexity on which volumes have been written. This essay has a very modest scope; the focus is limited to the *jus ad bellum* criteria and how they might be applied in a real-world situation. Turkey had a decision to make. This is an imaginative exercise on how Turkey might have applied *jus ad bellum* criteria in coming to the ultimate decision to intervene.

To establish a modicum of commonality of understanding the context of the just war analysis, we must first outline the background of the July 1974 events.

HISTORICAL BACKGROUND

For four centuries under the Ottoman Empire (1570 - middle of the twentieth century), Turkish Cypriots and Greek Cypriots co-existed on Cyprus. The Greek Cypriots spoke Greek, were Orthodox Christians, and looked to Greece for their cultural pursuits. The Turkish Cypriots spoke Turkish, were Muslim, and were culturally aligned with Turkey. The two lived peacefully, but as separate distinct groups throughout these centuries, and, while there were some business relationships and occasional intermarriage, there developed no cross-cutting ties between the peoples.¹

In 1878, the Sultan offered Cyprus to Great Britain and the British took over administration with the understanding that it was in trust for the Sultan.² When the outbreak of World War I found Britain and Turkey on opposite sides, Great Britain annexed Cyprus, and, in 1915, Britain offered to cede Cyprus to Greece in exchange for Greece joining the allies. Greece declined the offer, and British colonial rule continued.³ Following armistice, Turkey formally ceded the island to Great Britain.

¹ Joseph S. Joseph, *Cyprus: Ethnic Conflict and International Politics*, St. Martin's Press, 1997, p. 33

² Chatham House Memoranda: *Cyprus, The Dispute and the Settlement*, Royal Institute of International Affairs, 1969, p. 2

³ Ibid

After the end of World War II, Greek Cypriots began an activist campaign for Cypriot self determination, which was generally interpreted at the time as a drive for unity with Greece.⁴ Turkish Cypriots voiced their opposition, and supported a continuation of British colonial rule, believing their minority status to be better protected by the British than it would be by the Greeks.

Between 1955 and 1959, Britain organized a series of consultations in Zurich and London with Greece and Turkey to work toward a mutually acceptable way for Britain to turn Cyprus over to the Cypriots. In spite of that effort, the years from 1955 to 1958 brought a terror campaign to Cyprus, led by the National Organization of the Struggle for the Freedom of Cyprus (EOKA).⁵ Ostensibly seeking independence for Cyprus from Great Britain, EOKA pursued an objective of unity with Greece. It disallowed membership to Turkish Cypriots, and began its reign of terror by killing hundreds of Turkish Cypriots and destroying 30 of their villages.⁶ In 1956 Great Britain proposed a partition of the island between the Greek Cypriots and the Turkish Cypriots. Turkey expressed reluctance at such a solution, but eventually agreed that, if unity with Greece were the alternative then partition would be preferred.⁷ Greek Cypriots were violently opposed.

By 1960 a compromise had been worked out, and an independent Republic of Cyprus was founded on the basis of the several years of negotiation and discussion among Great Britain, Turkey and Greece. Leaders of Turkish Cypriots and Greek Cypriots joined them in signing the documents that became the legal framework for the independence of Cyprus: a Treaty of Establishment, a Treaty of Guarantee, and a Treaty of Alliance. The Treaty of Establishment defined the territory of the Republic; the Treaty of Guarantee provided for the maintenance of its constitutional and territorial integrity by prohibiting union of the whole or any part of the island with any other state; the Treaty of Alliance pledged Turkish and Greek cooperation in ensuring the security and defense of Cyprus. A Constitution established a fragile, bi-communal state, and the Greek Cypriot majority elected Greek Orthodox Archbishop Makarios as President of Cyprus. The Vice-President was, as provided in the Constitution, elected by the Turkish Cypriots.⁸

⁴ Barnard Reich, *The Cyprus Problem*, Research Analysis Corporation, 1969, p 5

⁵ Kyriacos C. Markides, *The Rise and Fall of the Cyprus Republic*, St. Martin's Press, 1977, p 24

⁶ *Ibid*, p 25

⁷ *Ibid*

⁸ Hal Kosut, *Cyprus 1946-68*, Facts on File, 1970, p 53

In the words of Joseph S Joseph, "the political framework was not only awkward and unworkable, but also rigid and unalterable."⁹ While it explicitly ruled out unity with any other state, it contained no provisions to promote integrative politics.

The result was that ethnic differences were acted out in public administration.¹⁰ Markarios gave the Interior Ministry and several other key posts to extremists with backgrounds in terrorist activity on the island. Greek Cypriots resisted implementation of state institutions, which were supposed to be divided between Greek Cypriots and Turkish Cypriots, but which the Greek Cypriots believed to provide too large a role for the Turkish Cypriots. Turkish Cypriots pressed for full implementation of what they saw as minority safeguards guaranteed under the Constitution. The public service never became operational in any real sense, and the state never became functional, but was characterized by virtual paralysis and increasingly stronger polarization along ethnic lines.

In November of 1963, President Markarios proposed thirteen revisions to the (legally unalterable) Constitution, most of which the Turkish Cypriots found threatening to their carefully balanced safeguards.¹¹ By December, the Turkish Cypriot members of the Parliament and the Government were expelled at gunpoint (Turkish Cypriot version) or all resigned (Greek Cypriot version) from their offices. Markarios declared the Constitution null and void. There were brutal attacks on the Turkish Cypriot population, resulting in widespread displacement from their homes into small enclaves for joint protection. The UN Secretary General described the situation as a veritable siege. Turkey threatened to intervene, but yielded to the UN, which sent Peacekeepers to Cyprus. In July of 1974, at the time of the Greek junta's *coup*, those UN forces were still in place in Cyprus (as they are even today), and from 1964 until 1974 the Turkish Cypriots continued to live in the isolated enclaves, but under their own rule.

⁹ Joseph, *op cit*, p 23

¹⁰ *Ibid*, p 25

¹¹ *Ibid*, p 28

THE CRITERIA OF JUS AD BELLUM

The generally accepted criteria of *jus ad bellum* fall into three groupings: competent authority, just cause and right intention.

Competent Authority

For a war to be just, three conditions are necessary. First, the authority of the ruler within whose competence it lies to declare war
St. Thomas

The provisions of the Cyprus Treaty of Guarantee, Article IV, grant, individually and collectively, to Turkey, Greece, and Great Britain the right to take action to uphold the provisions of the Treaty, which include Cyprus independence as a bi-communal state.¹²

The criterion of competent authority would appear to be met by Turkey's rights under the London Agreements establishing the independence of Cyprus. Specifically, Turkey acted under established and specific Treaty authority.

Just Cause

Secondly, there is required a just cause

St. Thomas

Those wars are generally defined as just which avenge some wrong, punish for having failed to make amends for the wrong done, or to restore what has been taken unjustly.

St. Augustine

We turn next to consideration of whether Turkey had just cause to intervene in Cyprus at this time. As they elaborate upon the classical description, scholars differ somewhat in their approach to just cause. O'Brien breaks it down into four subdivisions,¹³ which shall be applied here.

¹² Reich, *op cit* (Appendix D), p. 30

¹³ William V. O'Brien, *The Conduct of Just and Limited War*, Praeger, 1981, p. 20

-o- the substance of the just cause (Ends)

To evaluate the substance of the just cause, Turkey was responding to a forced overthrow of the legitimate elected government of Cyprus. Applying the Childress formulation,¹⁴ by its intervention, Turkey sought to protect innocents from further unjust attack (Cypriots); to restore rights being wrongfully denied (independence) and to restore a just order (bi-communal government under the 1960 Constitution).

O'Brien suggests a rather different approach, stating that, "In the modern world the just cause has to do with the survival of a way of life. Claims that this is so can be false or exaggerated, but they are often all too legitimate. They must be taken seriously in assessing the substance of just cause in modern just war analyses."¹⁵ He refers to fundamental rifts, such as that between Israel and the radical Arabs, as examples of intractable differences, where victory for one side (the radical Arabs) means elimination of the other side (Israel).

Using the O'Brien approach, Turkey/Turkish Cypriots were legitimately concerned with survival of the Turkish Cypriots' way of life. As a minority of different language, religion and culture, Turkish Cypriots had suffered significantly at the hands of Greek Cypriots since independence from Great Britain. In spite of clear Constitutional provisions prohibiting such action, Greek Cypriots had continued to pursue an objective of unity with Greece throughout the period of independence, just as they had prior to independence. The bloody *coup d'état* by Greece with assistance of the Greek Cypriot National Guard had a stated objective of unifying Cyprus with Greece.¹⁶ The rift appeared "fundamental" in O'Brien's terminology

Turkey, with Turkish Cypriots, intervened to reverse the *coup*, to prevent the annexation of Cyprus by Greece, to try to restore the independent, bi-communal government of Cyprus and to preserve the Turkish Cypriot way of life.¹⁷ Thus, it would appear that the case for just cause was rather strong.

-o- the forms of pursuing a just cause (Defensive/Offensive)

While self-defense is just by definition, offensive war is justified only when it is undertaken to reassert rights previously violated and to prevent recurrence of such injustice.

¹⁴ James F Childress, as quoted in Ibid, p 20

¹⁵ O'Brien, op cit , p 21

¹⁶ Joseph, op cit , p 51

¹⁷ R R Denktash, *The Cyprus Triangle*, George Allent Unwin, Ltd , 1982, p 68

Modern international law, notably the United Nations Charter, has modified the understanding of permissible forms of pursuing just war. Stated simply, only a war of individual or collective self-defense is legally permissible. In other words, international law has banned offensive war by establishing a "no-first-strike" rule¹⁸

O'Brien somewhat ruefully concludes that, "This means that the only way to come to the assistance of a nation suffering from grave injustice is through collective self-defense. The only way to assist a people not constituting a state who suffer injustice is to encourage them to create a state so that they can invite assistance under the justification of collective self-defense"¹⁹

At any rate, in terms of UN law, hostile acts were emanating from one state (Greece) across an international boundary to threaten the territorial integrity and the political independence of another state (Cyprus). Since 1960, Cyprus had been widely recognized as an independent sovereign state in international law and therefore had the right of self-defense. Turkey under Article 51 of the UN Charter had the right of intervention in an act of collective self-defense. Turkish Cypriots were pursuing their self-defense. Joining in that effort at their request, Turkey's intervention could easily be identified as "collective self defense" and as such would be considered just cause. O'Brien used this approach in concluding that the U.S. intervention with South Korea was a just cause.²⁰

-o- the requirement of proportionality of just ends to means

The ends must be sufficiently good or important to warrant the means of war, and the expected or projected good that is anticipated from success must overcome the probable evil that war will cause. According to O'Brien, the comparison of probable good and probable evil is extremely complex, and should be estimated for each belligerent, for any third party and for the international common good. There must also be a realistic probability of success.²¹

The criterion of proportionality, to a greater extent than is so for other criteria, calls for subjective judgment, and perhaps for that reason is the most difficult to evaluate in most situations. This applies in spades

¹⁸ O'Brien, *op cit*, p. 24

¹⁹ *Ibid*

²⁰ *Ibid*, p. 73

²¹ *Ibid.*, p. 27

to the case of Cyprus. The analyst must consider probable goods and evils as they relate to Greece, Turkey and Cyprus (Greek Cypriots and Turkish Cypriots separately), Great Britain, the East-West cold war atmosphere, and the international community.

For Turkish Cypriots, the end represented their freedom, their survival. Turkey had a tremendous interest in the survival of the Turkish Cypriot community, both from an historical, humanitarian/emotional standpoint, and from the perspective of the Turkish national interest (it found it unacceptable to have a hostile entity in control of a territory 40 miles off its coast) That intervention would be expected to result in much more good than evil was a foregone conclusion for Turkey and for Turkish Cypriots

Greek Cypriots had seen their independent government overthrown by forces led by Greece. The Greek junta was not popular either in Greece or in Cyprus. Greek Cypriot rights were being denied. One could, then, logically conclude that probable good would outweigh evil for Greek Cypriots if the *coup* were reversed. That is, the *status quo ante bellum* would have been preferable to the *status quo* under the junta.

Greece had made the "first strike" in Cyprus, and was clearly the aggressor, in violation both of the Treaty of Guarantee and of the UN Charter. But Greece was under a fascist *coup* government itself, a highly unpopular one, and one greatly feared by Greek citizens at large. While it defies imagination to assume that the probable good for Greece was among Turkey's intended objectives, in fact the Turkish intervention in Cyprus led promptly to the fall of the colonels in Athens as well as in Cyprus, and, whether intended or not, accomplished greater good than evil for Greece.

Great Britain was perhaps mainly concerned with its military bases on Cyprus, which were guaranteed by the 1960 treaties. The *coup* was destabilizing, to say the least. Yet Britain found itself caught in the cross currents of U.S. policy (stated and unstated). Reversing the *coup* could logically be construed to represent more probable good than evil for Great Britain by restoring stability and protecting Britain's bases.

From the perspective of the Western Alliance, with both Greece and Turkey members of NATO, the West would consider quite grave any instability in its "soft underbelly" region. The international community, as reflected in the UN, where Cyprus, Greece and Turkey were all members, was vitally concerned with the integrity of international borders, with controlling aggressive war and promoting stability and peace. Hence,

both the West and the larger international community logically would be expected to perceive more good than evil in the intervention planned by Turkey

As to the probability of success, with Turkey's army being one of the largest in the world, and several times as large as that of Greece, there was no serious question in the minds of Turkish leaders as to the certainty of their success in reversing the Greek *coup d'état* and in preventing unity of Cyprus with Greece. Given their perceived ability to succeed militarily on those fronts, it would have been reasonable for them to believe also that they would have a good probability of success in restoring the bi-communal independent state, since they would have believed that Greek Cypriots, if they were not be allowed unity with Greece, would prefer the *status quo ante bellum* to other possible alternatives, such as partition, for example.

-o- the requirement of exhausting all other peaceful remedies (Last Resort)

In O'Brien's discussion,²² he makes two interesting observations that are relevant here. He notes that, in reality, states have not risked their most vital interests on the outcome of international processes beyond their control, and he notes that disputes that are the mainsprings of conflict often have their origins in differences that are not themselves soluble except by force or abandonment of fundamental values.

Turkey was quite cognizant of its need to exhaust all peaceful remedies before using military force in Cyprus. By 1974, it had for more than 50 years been oriented toward the West, and almost desperately wanted to be accepted in the West as a good citizen among the international community of nations. For those reasons, it had backed away twice before in response to crises between the Greek and Turkish elements on Cyprus in 1964 and 1967. Nevertheless, Turkey also wanted to be seen as dependable in honoring its treaty commitments, and it had vital national interests at stake.²³

Acting in conformity with the tripartite agreement among Great Britain, Turkey and Greece, the Turkish Prime Minister went immediately to London to confer with Great Britain (and the USA) and to press joint Turkish/British action under the Treaty of Guarantee. Britain declined to intervene (apparently in deference to the USA)²⁴

²² Ibid , p 32

²³ Denktash, op cit , p 66

²⁴ Christopher Hitchens, *Cyprus*, Quartet Books, 1984, p 93

Turkey also received U.S. Envoy Joseph Sisco in Ankara, and then awaited his consultations with Greece. According to Sisco, the Greek junta appeared to be determined to go to war and refused to negotiate with him.²⁵ All efforts were to no avail.

Hence, in first seeking collective action under the Treaty, and then in allowing the USA time to try to persuade the colonels to pull out of Cyprus, Turkey demonstrated that it was open to non-military solutions and had attempted to achieve appropriate action under the Treaty of Guarantee. The UN Peacekeepers had been in Cyprus for ten years already, and had obviously been ignored by the Greek junta colonels. The US refused to publicly denounce the actions of the Colonels, fearing loss of the Sixth Fleet bases in Greece. Turkey, responding to pleas from the highest Turkish Cypriot official,²⁶ intervened. It would be reasonable to assume that Turkey believed that it had by then exhausted other means of resolving the crisis.

Right Intention

Thirdly, there is required a right intention on the part of the belligerent: either of achieving some good object or of avoiding some evil."

St. Thomas

The criterion of right intention limits the belligerent to pursuit of the just cause. It requires the belligerent to keep in mind the ultimate objective of a just and lasting peace, or at least a better peace than would otherwise have existed.

After the Turkish military intervention had reversed the Greek *coup*, Turkey immediately appealed for a restoration of the bi-communal agreement under the Cypriot Constitution of 1960.²⁷ The Prime Minister of Turkey issued a statement announcing that the Turkish intent was benign, was not directed against the Greek Cypriot community, but rather was done to throw out the junta. Thousands of leaflets in both Greek and Turkish were dropped from planes with a message of goodwill, and radio broadcasts put out the same message. Thus it would appear that Turkey's intention in intervening was right. Greek Cypriots, while glad of the overthrow of the Greek junta, proved unwilling to restore the conditions *ex ante bellum*. Once the junta fell in Athens as well, the Greek Cypriots began again to seek unity with the now-democratic Greece.

²⁵ Joseph, op cit, p. 51

²⁶ Brian Crozier, "The Forgotten Republic," *National Review*, June 12, 1995, p. 6

²⁷ Denktash, op cit, p. 69

EPILOGUE: A Note on The Judgmental Process

While numerous books and articles have been written on the theory or doctrine of just war, instances where an attempt had been made to systematically apply the just war criteria to real-world situations are rare. Valid questions arise concerning both the relative and the absolute importance of each of the criteria and the way in which they are to be applied.

The conclusion that evolved in my own mind is that, in considering whether to employ the military instrument, leaders must give careful consideration to each of the criteria and subcategories addressed above, and an unsatisfactory answer to any one of them must be vigorously scrutinized before one may decide, in good conscience, to proceed with military action. In the final analysis, the criteria of *jus ad bellum* are not to be employed as defense in a court of law so much as in the individual and collective conscience, as principles and aids to wiser decision-making and to more highly ethical and moral leadership in considering appropriate use of the military instrument.

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